

**NOTE:** Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ 1<sup>ST</sup> DRAFT ~

## Meeting Summary Motor Vehicle Dealer Board Monday, January 12, 2004

Chairman D.B. Smit called the Dealer Board meeting to order at 11:32 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 16 members present. Present were members Bobby Joe Dotson, Steve Farmer, Rick Hunt, Todd Hyman, Clyde King, Hugh McCreight, Pat Patrick, Max Pearson, Frank Pohanka, Ted Robertson, Vince Sheehy, Larry Shelor, Leo Trenor and Robert Woodall. (Absent: Carlton Courter, James Mitchell and Chris Schroeder). Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office. Alice Weedon acted as Recording Secretary.

The November 10, 2003 meeting summary was approved.

### **PUBLIC COMMENT**

Deputy Secretary of Transportation Ralph Davis spoke on the recent budget cuts of 2003. He also indicated that the primary focus of the Governor and the Secretary of Transportation in the upcoming General Assembly will be the Governor's Tax Reform Plan. He indicated that it is important that a stable General Fund is a prerequisite to a healthy Transportation fund or programs such as the Dealer Board's program. The Governor's plan includes about 392 million dollars of transportation over the next two years and this is equivalent to a 4 cent increase in motor fuels, however this is being done without a tax increase. The Governor will continue to assist and insist on reform and efficiency throughout the state government.

### **STATUTORY COMMITTEE REPORTS:**

#### **Dealer Practices Committee:**

- **Internet Task Force Motion.** Motion was made by Frank Pohanka for the Commissioner to create a committee to discuss and study the Internet Task Force Report in relation to the E-bay issue. Todd Hyman seconded. The motion carried unanimously.

Chairman Todd Hyman summarized discussions held and actions that were taken during the Committee Meeting.

- **Altaf H. Shah and Sports Car Center.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Altaf H. Shah and Sports Car Center. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Altaf H. Shah t/a Sports Car Center for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws, and §§46.2-1529, 46.2-1530, 46.2-1532, 46.2-1542, 46.2-1550 and 46.2-1559 related to record keeping requirements and Va. Code §46.2-1518, failure to post a list of salespersons as required. Mr. Shah received numerous letters, educational efforts and opportunities to comply with the record keeping requirements. Based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Altaf H. Shah t/a Sports Car Center; and based on due consideration, the Board

believes that all licenses and certificates issued by the Board to Mr. Altaf H. Shah t/a Sports Car Center should be suspended and that the Board hereby assesses a civil penalty in the amount of \$4,000 for violations of Va. Code §§46.2-1529, 46.2-1530, 46.2-1532, 46.2-1542, 46.2-1550 and 46.2-1559 related to record keeping requirements and Va. Code §46.2-1518, failure to post a list of salespersons as required. Further, the Board hereby suspends all licenses and certificates issued by the Board to Mr. Altaf H. Shah t/a Sports Car Center for a period of 90 days for violations of §46.2-1575(2) failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws.

Clyde King seconded. All in favor: 15 (Dotson, Farmer, Hunt, Hyman, King, Lacy, McCreight, Patrick, Pearson, Pohanka, Robertson, Sheehy, Trenor, Woodall and Smit). Opposed: 1 (Shelor). The motion carried.

- **Gary Nunnally and Gary Nunnally Car Sales.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Gary Nunnally and Gary Nunnally Car Sales. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Gary Nunnally t/a Gary Nunnally Car Sales for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws, and §§46.2-1529, 46.2-1530, 46.2-1548 and 46.2-1550 related to record keeping requirements and Va. Code §46.2-1518, failure to post a list of salespersons as required. Mr. Nunnally received numerous letters, educational efforts and opportunities to comply with the record keeping requirements and based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Gary Nunnally t/a Gary Nunnally Car Sales; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Gary Nunnally t/a Gary Nunnally Car Sales should be suspended. The Board hereby assesses a civil penalty in the amount of \$1,000 for violations of Va. Code §§46.2-1529, 46.2-1530, 46.2-1548 and 46.2-1550 related to record keeping requirements and Va. Code §46.2-1518, failure to post a list of salespersons as required; and that the Board hereby suspends all licenses and certificates issued by the Board to Mr. Gary Nunnally t/a Gary Nunnally Car Sales for a period of 90 days for violations of §46.2-1575(2) failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws.

Frank Pohanka seconded. All in favor: 14 (Dotson, Farmer, Hunt, Hyman, King, Lacy, McCreight, Patrick, Pohanka, Robertson, Sheehy, Trenor, Woodall and Smit). Opposed: 2 (Shelor and Pearson). The motion carried.

- **B. Dan Dickerson and Dan's Auto Mart USA.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding B. Dan Dickerson and Dan's Auto Mart USA. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Dan Dickerson t/a Dan's Auto Mart for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws, and §§46.2-1510, 46.2-1515, 46.2-1516 and 46.2-1575(3) related to being in compliance with all zoning ordinances and selling motor vehicles from an unlicensed location. Mr. Dickerson received numerous letters, educational efforts and opportunities to comply with requirements and based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Dan Dickerson t/a Dan's Auto Mart. The Board hereby assesses a civil penalty in the amount of \$1,000 for violations of Va. Code §§46.2-1515 and 46.2-1516 related to selling vehicles from an unlicensed location.

Pat Patrick seconded. All in favor: 0. Opposed: 16 (Smit, Farmer, Hunt, Dotson, Hyman, King, Lacy, McCreight, Patrick, Pearson, Pohanka, Robertson, Shelor, Sheehy, Trenor and Woodall). The motion failed unanimously.

- Walter B. Wilson and Armistead, Inc.** Chairman Todd Hyman summarized for the Board the discussion held in the Committee meeting regarding Walter B. Wilson and Armistead, Inc. Based on that discussion and the recommendation in the case, Mr. Hyman made the following motion: Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the executive director revoked all licenses issued to Mr. Walter B. Wilson t/a Armistead Auto for violations related to record keeping, failure to maintain posted business hours and for failing to comply with a written warning/willful failure to comply and; Mr. Wilson appealed the revocation and requested a formal hearing; and the Board has reviewed and considered the facts and evidence and the report of a formal hearing as prepared by the hearing officer concerning Mr. Walter B. Wilson t/a Armistead Auto for alleged violations of Va. Code §46.2-1575(2), failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws, and §§46.2-1529, 46.2-1530, 46.2-1531, 46.2-1542, 46.2-1548, 46.2-1550 and 46.2-1559 related to record keeping requirements; Va. Code §46.2-1518, failure to post a list of salespersons as required; Va. Code §46.2-1533, failure to maintain posted business hours and §§46.2-1542 and 1561 related to the issuance of temporary license plates; Mr. Wilson received numerous letters, educational efforts and opportunities to comply with the record keeping and other requirements. Based on due consideration and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Walter B. Wilson t/a Armistead Auto; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Walter B. Wilson t/a Armistead Auto should be suspended. The Board hereby assesses a civil penalty in the amount of \$3,000 for violations related to record keeping, not maintaining posted business hours, failure to post a list of licensed salespersons and failure to timely submit documents to DMV. Further, the Board hereby suspends all licenses and certificates issued by the Board to Mr. Walter B. Wilson t/a Armistead Auto for a period of 90 days for violations of § 46.2-1575 (2) failure to comply subsequent to receipt of a written warning and willful failure to comply with the dealer laws.

Steve Farmer seconded. The motion carried unanimously.

#### **Licensing Committee:**

Chairman Bobby Joe Dotson summarized discussions held and actions that were taken during the Committee Meeting. He indicated that the Committee discussed a recommendation to revise the DSD-10 to include a question to determine if the applicant has ever been found guilty of civil fraud. The draft was rejected and a motion was made to study this issue and was passed. He also indicated that Leo Trenor suggested that a study group be formed to find funds to be made available to combat curbstoning.

#### **Advertising Committee:**

Chairman Vince Sheehy summarized discussions that were held during the Committee Meeting.

- Dennis Allison and Great Neck Auto Sales II.** Chairman Vince Sheehy summarized for the Board the discussion held in the Committee meeting regarding Dennis Allison and Great Neck Auto Sales II. Based on that discussion and the recommendation in the case, Mr. Robertson made the following motion: The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mr. Dennis Alison t/a Great Neck Auto Sales for alleged repeated violations of 24 Virginia Administrative Code Section 22-30-30(D)(1) which provides that advertisements must meet the Federal Trade Commission Truth in Lending Act Requirements and Va. Code §46.2-1581.8 which requires dealers to identify the year, make and model of advertised vehicles. Based on due consideration, and the recommendation of the hearing officer, the Board believes a civil penalty should be levied against Mr. Dennis Alison t/a Great Neck Auto Sales. The Board hereby assesses a civil penalty in the amount of \$1,000 on Mr. Dennis Alison t/a Great Neck Auto Sales for violations of 24 Virginia Administrative Code Section 22-30-30(D)(1) and Va. Code §46.2-1581.8.

Ted Robertson seconded. The motion carried unanimously.

### **Transaction Recovery Fund Committee:**

Chairman Steve Farmer summarized discussions held and actions that were taken during the Committee Meeting.

### **OLD BUSINESS FROM THE FLOOR**

There was no other old business from the floor.

### **NEW BUSINESS**

- **2004 General Assembly.** Bruce Gould indicated that the General Assembly will convene on January 14 and he assembled a summary of the legislation introduced thus far and possible impact on the Dealer community. There are 5 bills, in which none has a direct impact, but they could be of interest. In particular, Senate Bill 88 would exempt some trailer dealers from some of the licensing requirements. Even though the Board does not regulate trailer dealers, this could be seen as a first step that could be expanded to include motor vehicles dealers.
- **Executive Director's Report.** Bruce Gould indicated that at the last meeting, he spoke of the Dealer Data Base look up on the Dealer Board's website. He has received positive feedback from consumers and dealers. Bruce Gould indicated that when dealers who need certain items quickly that the dealers offer a Fed Ex number so that the items can be shipped overnight at the dealer's expense. He wanted to propose a cost cutting/budget measure for dealers who need temporary tags that they could offer the same service. Consensus of the Board members were in favor of this idea.

The next meeting will be scheduled for March 8, 2004.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Smit adjourned the meeting at 12:28 p.m.

**Meeting Summary**  
**Dealer Practices Committee**  
**Monday, January 12, 2004**

Chairman Todd Hyman called the Dealer Practices Committee meeting to order at 8:36 a.m. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were members: Bobby Joe Dotson, Clyde King, Hugh McCreight, Pat Patrick, Frank Pohanka, Ted Robertson, Vince Sheehy and Robert Woodall. (Absent: James Mitchell and Chris Schroeder) Other members present: Leo Trenor, Rick Hunt, D.B. Smit, Steve Farmer, David Lacy and Larry Shelor. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon was present from DMV. Rick Walton was present from the Attorney General's Office.

The November 10, 2003 meeting summary was approved.

**PUBLIC COMMENT**

There was no public comment.

**OLD BUSINESS**

- **Review of 2001 Internet Task Force Report.** Jeff King of Car Max indicated that the Task Force meet 6 times between May of 2000 and December of 2000 and the report was adopted in January of 2001. The report was created to serve as guidance on matters of policy or e-commerce going forward. The objective was to create hypothetical situations for the task force members to consider. Both dealers and consumers of the task force reviewed these situations. Mr. King referenced the E-bay question that was presented at the November 2003 Dealer Practices meeting. He indicated that some of the issues presented would be in conflict with the Internet Task Force Report. He requested that the members consider what the Internet Task Force Report concluded as they review E-bay's business plan as it relates to dealers. General discussion followed.

Motion was made by Frank Pohanka to send the E-bay plan to the Internet Task Force Committee to study further. Robert Woodall seconded. The motion carried unanimously. It was brought to the attention of the committee that the Internet Task Force Committee does not exist any more, so it was suggested that a new work group be appointed by the Commissioner.

Motion was made by Frank Pohanka to reconsider the previous motion. Rick Hunt seconded. The motion carried unanimously.

Motion was made by Frank Pohanka to have the Commissioner appoint a new committee to review the Internet Task Force Report. Bobby Joe Dotson seconded. The motion carried unanimously.

- **E-Bay Update.** This issue was tabled pending recommendation from the new committee as noted above.
- **Update: November Actions.** Peggy Bailey reported that at the Dealer Practices Committee meeting on November 10, 2003, the Committee considered the hearing officer's report concerning Kiln Creek Auto Sales and the following resolution was passed: After an informal finding conference was conducted the Board reviewed and considered the facts and evidence and decided to assess a civil penalty of \$3,000 against Mr. James C. Pauley, Colde, Incorporated T/A Kiln Creek Auto Sales for violations of Va. Code §§46.2-1537, 46.2-1529, 46.2-1530, 46.2-1532, 46.2-1542, 46.2-1548, 46.2-1550, 46.2-1550.2 and 46.2-1561. Mr. Pauley was notified of the Board's decision in a letter dated December 2, 2003, and was given until January 5, 2004 to pay the civil penalty. As of this date, Mr. Pauley has not paid the civil penalty and he is no longer in business. The Board will attempt to collect the civil penalty through the Debt Set-Off Program administered by the Taxation Department.

- **Eddie Mayo of Premier Auto.** Todd Hyman updated the Committee that Mr. Mayo received an extra 2 years of incarceration when the judge determined that he sold 13 additional cars on E-bay after he had pleaded guilty to Federal Bank fraud and pledged not to sell any more cars on E-bay.

## **OLD BUSINESS FROM THE FLOOR**

## **NEW BUSINESS**

### **Review and Action: Informal Fact-Finding Conference:**

- **Altaf H. Shah and Sports Car Center.** A informal fact-finding conference was conducted on November 18, 2003 referencing Altaf H. Shah and Sports Car Center for the alleged violations of VA Code Sections 46.2-1518 (lists of salespersons not properly posted), 46.2-1529 (failure to maintain required sales records), 46.2-1532 (failure to maintain appropriate odometer records) and 46.2-1550 & 46.2-1559 (failure to maintain required temporary and transport tag records). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess a civil penalty of \$500 for each category of (1) willful failure to have available for inspection the requisite records, (2) odometer disclosures, (3) complete buyers' orders and temporary tag or transport tag records, totaling \$1,500. Also recommended was assessing a civil penalty of \$500 for each category of VA Code Sections 46.2-1518 (once), 46.2-1529/1530 (twice), 46.2-1532 (twice) and 46.2-1559 (twice) for a total of \$2,500. The total recommended sanctions against Sports Car Center \$4,000.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to accept the hearing officer's recommendation. Clyde King seconded. General discussion followed.

Substitute motion was made by Pat Patrick to also include a 90-day suspension along with the hearing officer's recommendation to assess a \$4,000 civil penalty. Clyde King seconded. The motion carried unanimously.

- **Gary Nunnally and Gary Nunnally Car Sales.** An informal fact-finding conference was conducted on September 11, 2003 referencing Gary Nunnally and Gary Nunnally Car Sales for the alleged violations of VA Code Sections 46.2-1518 (failure to displaying a current list of salespersons in a conspicuous place), 46.2-1529 (failure to maintain required records), 46.2-1530 (regarding proper maintenance of Buyer's Order), 46.2-1532 (failure to maintain odometer disclosure statements for a period of five years), 46.2-1533 (failure to maintain business hours), 46.2-1548 (failure to maintain IRS W-2 forms for individuals to whom dealer plates are assigned) and 46.2-1550 (regarding the proper use of dealer plates). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess a civil penalty of \$1,000 for the violations of VA Code Sections 46.2-1518, 1529, 1530, 1548 and 1550 and also recommended that, in the event of future noncompliance, a hearing be convened to consider the propriety of suspension or revocation.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Frank Pohanka to accept the hearing officer's recommendation. Robert Woodall seconded. General discussion followed.

Substitute motion was made by Vince Sheehy to include a 90-day suspension along with the \$1,000 civil penalty. Pat Patrick seconded. The motion carried unanimously.

- **B. Dan Dickerson and Dan's Auto Mart USA.** An informal fact-finding conference was conducted on July 21, 2003 referencing B. Dan Dickerson and Dan's Auto Mart USA for the alleged violations of VA Code Sections 46.2-1510 (failure to have established place of business), 46.2-1515 (failure to have location be specified, display of license, change of location) and 46.2-1516 (failure to have supplemental sales location). Also, Mr. Dickerson was alleged to be in violation of VA Code Sections

46.2-1575(2) (failure to comply with written warnings from the Board) and 1575(3) (failure to have an established place of business/comply with all zoning ordinances). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board suspend Mr. Dickerson's dealer's licenses for a period of sixty (60) days and that the Board assess a civil penalty of \$2,000.00 for Mr. Dickerson's failure to comply with the written warning from the Motor Vehicle Dealer Board.

Mr. Charles Hall spoke on behalf of his client, Mr. B. Dan Dickerson. He indicated that Mr. Dickerson attempted to comply with zoning and was told that if Mr. Dickerson applied for a special permit, he could continue conducting his business or that Mr. Dickerson applied for a revision of the permit just about every month. Mr. Hall stated that Mr. Dickerson is only in violation of selling cars from the unapproved lot and not any other laws and regulations. Mr. Hall feels that a suspension is too harsh.

Mr. John Jones, zoning inspector, spoke on behalf of Albermarle County. He indicated that beginning in February of 2002 and ending in October 13, 2003, Mr. Dickerson displayed vehicles for sale on an unauthorized lot. On April 28, 2003, Mr. Dickerson went to District Court and the case was suspended, by the judge, for 6 months, pending compliance of "not" displaying vehicles on the vacant lot. Mr. Dickerson agreed to that. On May 5, 2003, 5 days later, Mr. Dickerson was back on the empty lot, with his cars in sales display position. So, what Mr. Jones indicated that someone in the Albermarle Office told Mr. Dickerson that he could continue to display vehicles while he was going through his site plan revision process is inaccurate. General discussion followed.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Bobby Joe Dotson to reject the hearing officer's recommendation and assess a civil penalty of \$1,000 with the understanding that the vehicles will not be displayed for sale on the lot and ensure that the lot be inspected periodically to make sure he is not displaying vehicles for sale. Robert Woodall seconded. All in favor: 5 (Dotson, King, Patrick, Robertson, Woodall). Opposed: 4 (Hyman, Sheehy, McCreight, Pohanka). The motion carried.

#### **Review and Action: Formal Hearing:**

- **Walter B. Wilson and Armistead, Incorporated.** A formal hearing was conducted on October 14, 2003 referencing Walter B. Wilson and Armistead, Inc. for the alleged violation of VA Code Sections 46.2-1529 (failure to maintain required records) and 46.2-1533 (failure to maintain minimum business hours). Also, it was alleged that Armistead violated VA Code Section 46.2-1575(2) (failure to comply with the Board's prior written warnings). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board assess civil penalties of \$500 for each of the violations of VA Code Section 46.2-1533 (two violations totaling \$1,000) and \$750 for each violation of VA Code Section 46.2-1575(2) (two violations totaling \$1,500) for a total civil penalty assessed of \$2,500.

Also, because of the admitted failures described in the September 25, 2001 Dealer Record of Inspection, the hearing officer recommended assessing civil penalties of \$500 for the problems documented on this date. Specifically, \$100 assessment for failing to timely forward materials to DMV within 30 days, \$100 assessment for not posting an accurate salespersons list and \$100 assessments for each of the record keeping violations involving (1) dealers tags, (2) sales records and (3) temporary tag or transport tag records, which totals \$300. Total civil penalty is \$3,000. Also recommended that the Board suspend the salespersons' licenses of Mr. Wilson and Ms. Peterson (salesperson who responded to the Board's inquiries) for a total of fifteen days each for the violation of VA Code Section 46.2-1575(2).

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Pat Patrick to accept the hearing officer's recommendation. Clyde King seconded. General discussion followed on the salesperson's 15 day suspension.

Pat Patrick withdrew his original motion.

Motion was made by Hugh McCreight to assess a civil penalty of \$3,000 and to suspend the dealer's license for 90 days. Pat Patrick seconded. The motion passed unanimously.

- **Report on Variance Requests (Dealer Hours and Storage of Dealer Records).** Bruce Gould reported that there were 2 requests from dealers who requested to store their records off-site. One was approved and one was denied. Three dealerships were given approval to the DMV to let them become on-line dealers.

He also requested approval of a variance for a dealership called Nichols Auto Auction in Fredericksburg. In years past, he has ask for a variance in hours of operation. He has always been approved because of his good standing with the Board.

Motion was made by Frank Pohanka to accept Nichols request for a variance in hours. Rick Hunt seconded. The motion passed unanimously.

### **NEW BUSINESS FROM THE FLOOR**

Frank Pohanka wanted to discuss the ability to issue CVR rights to courtesy deliveries. Right now, courtesy deliveries cannot do CVR. This is classified as a DMV issue. No further action taken at this time.

The next meeting was scheduled for March 8, 2004.

The meeting adjourned at 10:22 a.m.



## Meeting Summary Dealer Licensing Committee Monday, January 12, 2004

Chairman Bobby Joe Dotson called the Dealer Licensing Committee meeting to order at 10:28 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members Frank Pohanka, Steve Farmer, Rick Hunt, Todd Hyman, David Lacy, Larry Shelor and Larry Woodall. (Absent: James Mitchell) Other members present: Ted Robertson, Vince Sheehy, D.B. Smit, Pat Patrick, Clyde King, Leo Trenor, Max Pearson, Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office.

The November 10, 2003 meeting summary was approved.

### **PUBLIC COMMENT:**

There was no public comment.

### **OLD BUSINESS**

**Update: November Actions:** Peggy Bailey updated the Committee on the following issues that were discussed at the November meeting: The Committee reviewed and considered the facts in a formal hearing on Mr. Ernest M. Pazmany. The Board issued a resolution to approve the application for a motor vehicle salesperson's license for Mr. Pazmany. He was notified of the Board's decision in a letter dated December 2, 2003. The Committee also reviewed and considered the facts and the hearing officer's report on Mr. Todd K. Keyser and Automotive Management Group, Incorporated T/A Select Wheels. The Board issued a resolution to assess a civil penalty of \$1,000 against Mr. Keyser and Select Wheels for violations related to zoning requirements, Va. Code §§46.2-1510 and 46.2-1575(9). Mr. Keyser was notified of the Board's decision in a letter dated December 2, 2003 and was given until January 5, 2004 to pay the civil penalty. The Board received the \$1,000 civil penalty on January 5, 2004.

### **OLD BUSINESS FROM THE FLOOR**

- **DSD-10 and Review of Drafted Language.** Bobby Joe Dotson indicated that at the November 2003 Committee Meeting there was some discussion concerning revising the Dealer Certificate Application (DSD-10) to include a question to determine if the applicant had ever been found "guilty" of civil fraud. The discussion was tabled and it was requested that draft language be developed for review at the January meeting. The following draft question would be added to the list of questions under question number 9 on the DSD-10:

*Has any judgment in a civil action which was based on allegations of common law fraud, fraudulent misrepresentation, or a violation of the Consumer Protection Act ever been entered or awarded against any owner, partner, officer, or dealer-operator of the business; or against the business named under Item Number 4 (NAME OF BUSINESS) on the first page of this application?*

Motion was made by Bobby Joe Dotson to accept the new language to be added to the DSD-10. Steve Farmer seconded.

Frank Pohanka questioned the "violation of the Consumer Protection Act" section of the proposed language. He indicated that law suites against dealers under the Consumer Protection Act are becoming more frequent and he is concerned that adding this question could be a problem. General discussion followed.

Substitute motion was made by Frank Pohanka to defer this issue and request the Commissioner to form a committee of the associations and any attorneys to review this and get back with the Licensing Committee at a further date. Todd Hyman seconded. The motion carried unanimously.

## **NEW BUSINESS**

### **NEW BUSINESS FROM THE FLOOR**

- **Curbstoning.** Leo Trenor indicated that, at one time, the Board had a curbstoning investigator and because of budget cuts, the position was abolished. Mr. Trenor requested that the Committee pursue the idea of getting some money back into the budget to fill another curbstoning position. It was requested by Bobby Joe Dotson that Bruce Gould look into this issue and present a report at the next Committee Meeting. Bruce Gould indicated that the budget for state agencies has already been put forth for 2004 and this budget does not include funds to fill another curbstoning position. Consensus of the Committee was that Bruce Gould and D. B. Smit to get together and discuss this issue. General discussion followed.
- **Salesperson Testing Statistics.** Bruce Gould indicated that the closing calendar year reflects that in 2003 over 6,900 tests were given at DMV Customer Service Centers. That comes to about 576 individuals a month becoming licensed as a salesperson. The passing rate is approximately 84%. In addition, 614 individuals have taken the Dealer Operator's test, with a 77% passing rate.

The next meeting was scheduled for March 8, 2004.

The meeting adjourned at 11:06 a.m.

# Meeting Summary

## Advertising Committee

### Monday, January 12, 2004

Chairman Vince Sheehy called the Advertising Committee meeting to order at 11:18 a.m. in Room 702, at DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were members Ted Robertson, Steve Farmer, Rick Hunt, Hugh McCreight, Pat Patrick, Max Pearson and Larry Shelor. (Absent: Chris Schroeder). Other Board members present: Leo Trenor, Robert Woodall, Todd Hyman, Frank Pohanka, D.B. Smit, Clyde King, David Lacy, Bobby Joe Dotson. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office.

The November 10, 2003 meeting summary was approved.

#### **PUBLIC COMMENT**

There was no public comment.

#### **OLD BUSINESS**

**Update: November Actions.** Peggy Bailey reported on the Advertising Committee meeting held on November 10, 2003, the Committee considered the hearing officer's report on Mr. Jeffrey E. Cappel and Victory Nissan of Chesapeake. A resolution was passed to assess Mr. Cappel and the dealership a \$1,000 civil penalty for violations of 24 Virginia Administrative Code § 22-30-30 (D)(1). The dealer was notified of the Board's decision in a letter dated December 2, 2003. Mr. Cappel had until January 5, 2004 to pay the civil penalty. The Board received the \$1,000 civil penalty on December 31, 2003. The Board reviewed and considered the hearing officer's report on Mr. Edward H. Fellers and Fellers Chevrolet Oldsmobile. A resolution was passed to issue a written warning for any future violations of Va. Code § 46.2-1581(8) and Virginia Administrative Code § 22-30-10. Mr. Fellers was notified of the Board's decision, which also included the written warning, in a letter dated December 2, 2003. After having carefully reviewed the facts of this case, and considered the hearing officer's report on Mr. Arthur S. Casey and Casey Auto Group (Casey), the Board passed 3 Resolutions, which indicate the following: a written statement should go to Casey that the Board disagrees with the hearing officer's conclusion that the "Consumer Cash Rewards Program" is in violation of Va. Code § 46.2-1581(10) and 24 Virginia Administrative Code § 22-30-10; to issue a written warning to Casey for violations of Va. Code § 46.2-1581(4) and 24 Virginia Administrative Code § 22-30-10 and Va. Code § 46.2-1575(6) and (7); and to issue a written warning to Casey for violations of Va. Code § 46.2-1581(9) and Virginia Administrative Code § 22-30-10. Mr. Casey was notified of the Board's decision, which also included the written warnings, in a letter dated December 2, 2003.

#### **OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

#### **NEW BUSINESS**

##### **Review and Action: Informal Fact-Finding Conferences:**

- **Dennis Allison and Great Neck Auto Sales II.** An informal fact-finding conference was conducted on September 10, 2003 referencing Dennis Allison and Great Neck Auto Sales II for the alleged violations of 24 VAC 22-30-30-D.1 (Truth in Lending) and VA Code Section 46.2-1581.8 (Failure to identify vehicle by make, model or year). Based on the testimony and evidence surrounding the case, the hearing officer recommended that the Board impose a civil penalty of \$1,000 for the advertisements in question, \$500 for each violation.

After some discussion and review of the information provided to the Committee in their notebooks, a motion was made by Steve Farmer to accept the hearing officer's recommendation to assess a \$1,000 civil penalty. Pat Patrick seconded. The motion carried unanimously.

**NEW BUSINESS FROM THE FLOOR**

The next meeting will be March 8, 2004.

The meeting adjourned at 11:27 a.m.

Meeting Summary  
**Transaction Recovery Fund Committee**  
Monday, January 12, 2004

Chairman Steve Farmer called the Transaction Recovery Fund Committee meeting to order at 11:29 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were members: Bobby Joe Dotson, Clyde King, Larry Shelor and Leo Trenor (Absent: Chris Schroeder). Other Board members present: Ted Robertson, Todd Hyman, Frank Pohanka, Rick Hunt, David Lacy, D.B. Smit, Pat Patrick, Max Pearson, Vince Sheehy, Robert Woodall and Hugh McCreight. Executive Director Bruce Gould, Peggy Bailey, Debbie Allison and Katherine Idrissi represented the Dealer Board. Gail Morykon represented DMV. Rick Walton represented the Attorney General's Office.

The November 10, 2003 summary was approved.

**PUBLIC COMMENT:**

There was no public comment.

**OLD BUSINESS**

**OLD BUSINESS FROM THE FLOOR**

There was no old business from the floor.

**NEW BUSINESS**

**NEW BUSINESS FROM THE FLOOR**

There was no new business from the floor.

The next meeting was scheduled for March 8, 2004.

The meeting adjourned at 11:30 a.m.